
Report on U.S. EPA's Prospective Purchaser Agreements and Comfort/Status Letters: How Effective Are They?

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Background

To quell the growing concern that some parties may incur Superfund liability although they did not cause the hazardous waste contamination, EPA developed two mechanisms - PPAs and comfort/status letters.

Over the years, EPA had heard that these tools were very effective in allaying those concerns although the Agencies had not collected data.

In order to substantiate the anecdotal claims that PPAs and comfort/status letters enabled parties to reuse formerly contaminated property, OSRE undertook a survey analysis of regional staff and private parties. OSRE used the surveys to collect general information on the use of these tools, obtain specific data on property cleanup and reuse, and determine the effectiveness of these tools in meeting the needs of private parties and regional staff to cleanup and reuse contaminated property.

OSRE evaluated the survey responses according to the following criteria:

- How instrumental PPAs and comfort/status letters have been in accelerating site cleanup and revitalization of blighted properties;
- How effective PPAs and comfort/status letters have been in meeting the needs of the requesters; The timeliness of the PPA and comfort/status letter process, and whether they have satisfied the affected parties;

- What affected parties consider the most important elements of PPAs or comfort/status letters;
- The types of property cleanups and reuse situations in which PPAs or comfort/status letters have been most useful;
- The problems parties have encountered while going through the PPA or comfort/status letter process and recommendations for addressing those problems; and,
- Alternatives to PPAs and comfort/status letters.

Survey Results

Comfort/Status Letters

Regional and private party respondents were given the opportunity to provide comments on their experiences in negotiating a comfort/status letter and provide suggestions for improving the process. The majority of private parties were satisfied with EPA's comfort/status letter process. The following is a summation of the most consistent and significant suggestions offered by regional and private party respondents.

Benefits:

- Comfort/status letters, enable the return of properties to more

environmentally beneficial uses.

- Comfort/status letters help local communities revive their neighborhoods.
- Comfort/status letters enhance the economic viability of reuse projects.
- Comfort/status letters are a relatively fast and inexpensive tool to facilitate brownfield redevelopment.

Improvements:

- Accelerate the comfort/status letter process.
- Ensure that EPA and private parties explore other options that could alleviate concerns over Federal Superfund liability.
- Strengthen assurance and reduce caveats in comfort/status letters.
- Archive sites that are eligible for comfort/status letters whenever possible.

The comfort/status letter survey findings indicate that regional offices are effectively implementing the policy and that the letters have facilitated property reuse. Respondents also reported that comfort/status letters, for the most part, are relatively easy to obtain. EPA has already made progress towards facilitating property reuse and addressing some of the challenges presented by survey respondents.

Survey Results PPAs

The majority of private parties were satisfied with EPA's PPA process. Although respondents provided relatively few comments, there were consistent themes that underscore the benefits and areas that EPA had already identified for improvement. Other factors also came to light. For example, the more fully characterized a site, the faster EPA and purchasers finalize the PPA.

Benefits:

- PPAs help local communities revive their neighborhoods.
- PPAs support diverse uses at properties of varying sizes.
- PPAs enhance the economic viability of reuse projects.
- PPAs allow property reuse and site cleanup to coincide.
- PPAs preserve the Superfund Trust Fund, thus allowing EPA to clean up other hazardous waste sites.

Improvements:

- Streamline the PPA process.
- Ensure that EPA and private parties explore other options that could alleviate concerns over Federal Superfund liability.

- Provide guidelines on appropriate consideration.
- Improve communication with states, local governments, and local communities.

The PPA survey findings indicate that EPA is effectively implementing its PPA guidance to encourage and facilitate the cleanup and reuse of Superfund sites and that the number of successful agreements has increased significantly in recent years. Respondents also reported that EPA, for the most part, has been responsive to purchasers in meeting their needs in a timely manner. At the same time, the respondents commented that EPA still could improve the process of obtaining PPAs. As outlined on pages 50-51 of the Final Report, EPA has already made progress towards its goals of improving the PPA process and addressing the difficulties private parties encountered while obtaining a PPA.

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